

COMMISSIONERS APPROVAL

GRANDSTAFF *CG*

ROKOSCH *JH*

THOMPSON

CHILCOTT *CH*

DRISCOLL *KO*

PLETTENBERG (Clerk & Recorder)

Date.....December 9, 2008

Members Present.....Commissioner Carlotta Grandstaff, Commissioner Jim Rokosch, Commissioner Alan Thompson and Commissioner Kathleen Driscoll

► Minutes: Glenda Wiles

► The Board met with Sue Majors about a 'new concept' in regard to the animal protection and control service as an independent contractor position. Sue noted she was a former member of the Animal Control and Protection Board and by way of her submittal, she suggested she be hired as an independent contractor with her business name of Major Animal Care. She contacted numerous veterinarians and presented a petition with thousands of signatures who supported this animal protection service. She noted the dog licensing sales have been occurring for over two years but nothing has been done to utilize this money in order to hire an animal protection and control officer. She also noted that many of the citizens are not buying their license or renewing their license if the county is not going to move forward with a control officer.

She stated if the Commissioners want to move forward with this new concept, she understands her independent contractor's license and submittal for contract will be scrutinized by the county. She also noted she has researched the notion that an Animal Control Officer must be Deputized, which according to other counties, they do not Deputize these animal control officers.

Commissioner Rokosch was now present for this meeting and asked if Sue knew what to expect for the related costs that might not be part of the contract (i.e., food, shelter, quarantine, medical expenses etc.) Sue stated there is \$20,000 sitting in the county account now, and she understands that money is not utilized for those issues, rather to be utilized for an animal control officer. She stated it would be important to continue to utilize the Animal Shelter in their agreement with the county. Jim stated if there is an animal control officer he would expect those other costs to rise simply due to the activities that the animal control officer would be involved in.

Chairman of the Animal Protection and Control Board, Peg Platt stated they are looking at those figures now but do not have any of those available for this meeting.

Commissioner Rokosch asked Sue what types of activities she would consider within this Independent Contractor proposal. Sue stated if there were large animals she would look to the shelter for assistance. If she was hired as an independent contractor she plans to do the work herself and if necessary she could subcontract out for another worker which would be paid by her. Sue stated if she is out doing the job on a full time basis she is hoping the problems will be resolved by her assistance to the citizens. By that reasoning she hopes the costs to actually go down.

Commissioner Driscoll asked if the counties she reviewed had any cost reduction. Sue stated she has not looked at that issue in regard to costs; noting some counties have an Animal Control Officer that works within the shelters. Those other counties have large budgets for this endeavor.

Sue stated the monies she is proposing can be utilized from the Animal Control Account by the sale of those licenses. Currently there is \$20,000 in that account.

Under Sheriff McConnell stated the Sheriff still believes in having an Animal Control Officer or Independent Contractor. He would like this information that Sue has presented be reviewed by the County Attorney. First of which to see if this is legal, and how they will deal with the animals for housing them, particularly when the agreement the county has with the Animal Shelter is from 1984. He indicated that agreement needs to be reviewed and possibly resolved for further issues that will occur with the animal control issues. He stated he does not want any decisions to be made today as there are many departments that will be working together and he feels they need a process that is standard for hiring and responsibilities.

Public Comment was then called for:

Peg Platt gave a brief history of the Animal Control Ordinance and noted there is \$21,000 in the animal control fund. Those monies are from the dog license program and it took 2-years to obtain this money. Peg noted these issues take time and most veterinarians understand it is important to have the right model before they start this animal protection and control services. She also noted they have been given \$4,500 in donated monies. She has also received numerous calls from citizens who have had background in being an Animal Control Officer which could be a good fit. She stated Sue has been on the Animal Control and Protection Board and did a good job but she agrees with Under Sheriff Kevin McConnell for this review.

Connie Knapp is new to the area but has become involved in the Alpaca Sanctuary. She does not know Sue but notes she is impressed with Sue's efforts. She also knows there is a high turnover in these positions.

Theresa Manzella is a horse trainer and has started a volunteer organization called 'Willing Servants'. This group takes care of horses and mules that are given away and finds homes for them. There are over 100,000 horses in the U.S. due to the closure of the slaughter houses that have to be tended to. She does not feel the Bitterroot Humane Association should take on these matters. Thus, their volunteer organization wants to help in these issues. She is desperate to have an Animal Control Officer – closure of slaughter houses, cost of hay and grain thus, the horses have to be cared for. Some people won't be reasonable on how they take care of these horses. She felt Sue's concept seems valid and she has seen Sue's spirit. The cost of rehabbing a horse is more than taking care of one, which would save us money.

Sue did some research on Independent Contractors, naming some areas of the U.S. and noted many workers of the ASPA utilize independent contractors. They do not carry weapons and are not deputized. They have limited authority to work on the Animal Ordinance and investigate animal cruelty.

Barb Ormiston asked who the independent Contractor would be responsible to. Sue stated if they hired an independent contractor, the contract would address those responsibilities. The contract allows for termination. Her proposal is that any complaint she investigates would go to the proper office, i.e., the Sheriff's Office, the County Attorney etc.

Commissioner Grandstaff asked how the budget would be increased as an independent contractor utilizes those monies. Sue stated the Animal Control Officer would drive monies into the account due to enforcing the licensing, issuing citations etc. Sue stated this \$20,000 is just sitting there and she asked how much more money does the county want to garner before they hire an Animal Control Officer.

Peg stated they received two donated vehicles, but there is training, uniforms etc. they are working to obtain. Sue stated while she was on the board she remembers the costs to be around \$59,000 per officer to get started.

Commissioner Rokosch stated he cannot expect dog licenses to start this program, as it will need to be supplemented. He stated there is a basic flaw to think that simple dog licensing will fund an animal control officer. Therefore, the Commissioners need to take a look at the realistic amount of monies they need. He noted he is in support of this program; he simply wants to be realistic and make the program effective. He stated the Commissioners need to be open to this type of a program, i.e., an independent contractor.

Peg stated once the start up costs are taken care of they figure they can obtain 80% of the salaries by the licensing fees. The Board can still seek donations and grant monies which will be easier to obtain once the program is started.

Sue stated while they did research for the grants they found 14,200 dogs in the county in 2006. The actual license and citations have not been enforced. In Missoula they brought in \$100,000 in citations alone last year.

Under Sheriff McConnell stated he understands they won't have a perfect start up but until that point the Sheriff's Office attempts to do the best they can. He stated they will continue to do that work while the Animal Control Officer is in its infancy stages. His recommendation is the Control Officer is outside the Sheriff's Office but they will support their work.

Kathy Good of the Bitterroot Humane Association asked if this undertaking is too much for one person. Enforcement, compliance and collection of license fees are a lot of work for one person. She is afraid they will not have any money left at the end of the year if they hire a person before they are ready.

Sue stated she would continue to work with the shelter, and with an independent animal control service they do more than their hourly expectations. She stated as a private investigator she was continually moving on a case and if she needed assistance she would seek another sub-contractor for that assistance. She also suggested the collections of dog licensing continue, and feels the enforcement will actually bring in more money.

Commissioner Driscoll noted there are many people have dedicated many hours to get this animal control and protection services going. She stated it is important to honor the relationships and work that has been done over the years. She wants to make sure oversight is important on this.

Vicki Dawson, Manager of the Shelter stated they support the Animal Protection and Control but they feel this position should be held by an actual county employee. Sometimes they need 50-75 volunteers for their animal cases and confidentiality is important. There are some strong feelings about the care of animals and it important the whole team pull together in these cases. The county needs to back this program because they don't want to lose some strong cases. She stated she is worried about liability to the county, i.e., the liability to the county when they know there are certain issues like the dogs that run at large in Victor. Vicki stated Missoula has 10-40% compliance on their licensing but they have been at this for a while. They need to take a close look at how this gets structuring.

Commissioner Grandstaff suggested they give the County Attorney's Office this information for review.

Minutes: Beth Perkins

► The Board met for a public hearing for Rivers Edge II major subdivision. Present were Civil Counsel Karen Mahar, Deputy County Attorney Dan Browder, Planner Randy Fifrick, Planner Tristan Riddell, Planner Jon Wickersham and several citizens.

Commissioner Grandstaff opened the public hearing and requested any conflicts of interest. Hearing none, she then requested the Planning Staff report be read.

Kirby Christianson requested a half an hour delay due to the absence of Commissioner Chilcott. After discussion, it was determined to move forward.

Randy presented the Staff Report as follows:

**RIVERS EDGE II  
NINE-LOT MAJOR SUBDIVISION**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** Randy Fifrick

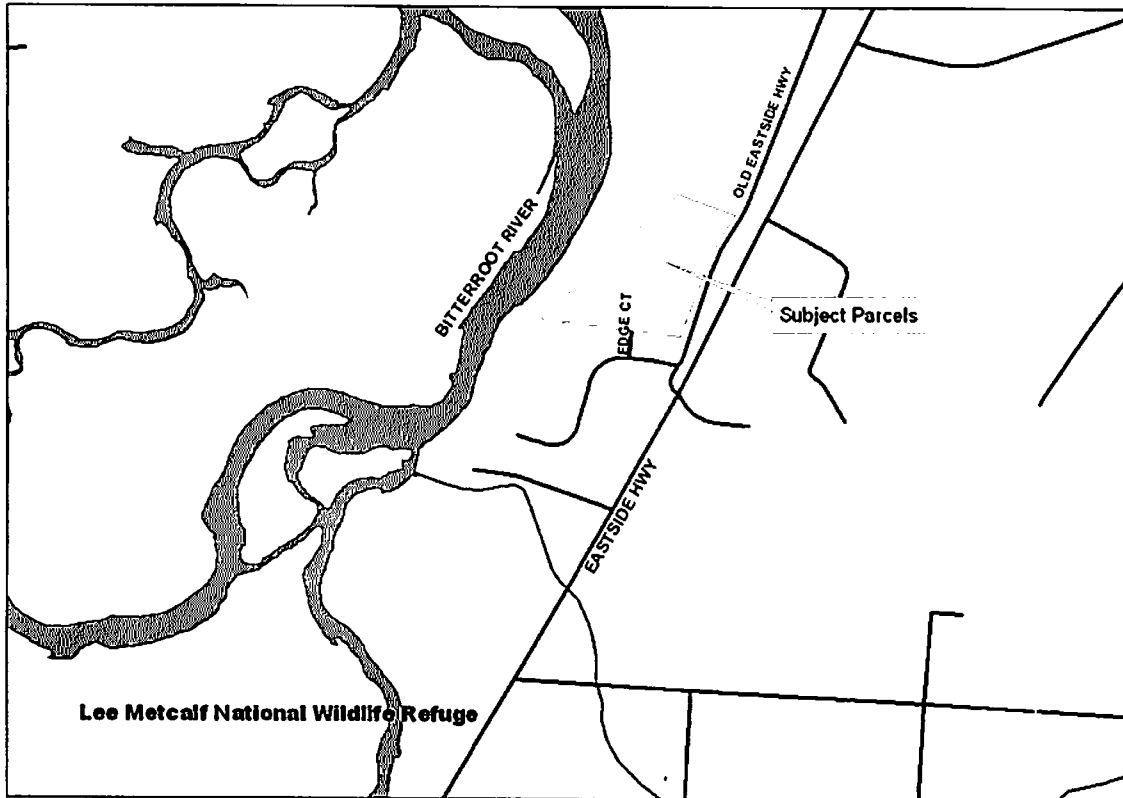
**REVIEWED/  
APPROVED BY:** Tristan Riddell

**PUBLIC HEARINGS/  
MEETINGS:** Planning Board Meeting: 7:00 p.m. November 5, 2008  
BCC Public Hearing: 10:00 a.m. December 9, 2008  
Deadline for BCC action (60 working days): December 15, 2008

**SUBDIVIDERS/OWNER:** Flyhigh Developers Corp.  
4681 Harlequin Drive  
Missoula, MT 59808

**REPRESENTATIVE:** Gordon Sorenson  
2610 Gunsight Court  
Missoula, MT 59808

**LOCATION OF REQUEST:** The property is located north of Stevensville off  
of Old Eastside Hwy and Edge Drive. (*See Map 1*)



**Map 1: Location Map**  
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION  
OF PROPERTY:**

Tract 1, COS#529933-TR, Section 25, T10N, R20W & Section 30, T10N, R19W, P.M.M., Ravalli County, Montana.

**APPLICATION  
INFORMATION:**

The subdivision application was determined complete on September 16, 2008. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-12 of the staff report. On November 7, 2006, voters enacted interim zoning that applied to any subdivision that had not received preliminary approval from the Board of County Commissioners. As a result of the *Lords et al. v Ravalli County* settlement agreement, legal counsel has advised, that subdivisions not part of the lawsuit that should have received a decision prior to the enactment of interim zoning, should be processed in accordance with the settlement. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

**LEGAL NOTIFICATION:** A legal advertisement was published in the Ravalli Republic on Thursday, October 30, 2008. Notice of the project was posted on the property and adjacent property owners were notified by certified mail postmarked October 6, 2008. Three public comments have been received to date (Exhibit B-1 through B-3).

**DEVELOPMENT  
PATTERN:**

Subject property	Agriculture
North	Residential
South	Residential
East	Open Space
West	Residential

**INTRODUCTION**

Rivers Edge II is a nine-lot major subdivision located north of the Town of Stevensville. The proposal is for residential use. The property is accessed by taking Old Eastside Highway to Edge Drive and turning right on the internal road, Edge Court. The Bitterroot River does not border the proposal, but lies just to the west.

*Staff recommends conditional approval of the subdivision proposal.*

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS**

**DECEMBER 9, 2008**

**RIVERS EDGE II  
NINE-LOT MAJOR SUBDIVISION**

**RECOMMENDED MOTION**

That the Rivers Edge II Major Subdivision be ***approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. *(Staff Note: The Board of County Commissioners should make a decision regarding parkland dedication as part of the motion.)*

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE  
SUBDIVISION**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

***Notification of Proximity to Agricultural Operations.*** This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

***Limitation of Access onto a Public Road.*** A "no-ingress/egress" restriction exists along the Old Eastside Highway frontage of this subdivision. All lots within this subdivision must access their parcel using the internal subdivision road, Edge Court. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Effects on Local Services and Public Health and Safety)*

***Notification of Road Maintenance Agreement.*** The internal subdivision road is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for this road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Effects on Local Services)*

***Notification of Storm Water Drainage Easements.*** Within this subdivision there is a storm water drainage easement along the property boundary of Lots 4 and 5. No structure or obstruction may be placed within this easement that is not required for storm water management. *(Effects on Local Services and Natural Environment)*

***Floodplain Development.*** This property is located in close proximity to the Bitterroot River. The banks of the River are subject to potential soil erosion, flooding, and movement of the River's channel. A floodplain study has been done for this subdivision and portions of the property were found to be located within the 100-year floodplain of the Bitterroot River. Approval of this subdivision is not a guarantee that properties within this subdivision will be safe from flooding and/or surfacing high groundwater. It is recommended that property owners obtain flood insurance. No paving is permissible in areas delineated as being within the 100-year floodplain. All development within the 100-year floodplain must meet the minimum development standards set forth in the effective Ravalli County Floodplain Regulations. For a complete table of development restrictions and allowances in and near the floodplain, consult the effective Ravalli County Floodplain Regulations. It is also recommended that basements and below grade crawl spaces should not be built in proposed residences. Even though FEMA has granted a LOMR-FW for the subject property, the prerogative to require flood insurance belongs to the mortgage lenders. Property owners with enclosed floors below the 100-year base flood elevation (BFE) pay substantially higher insurance premiums than those who build above the BFE. Above grade enclosures will also reduce the possibility of groundwater inundation into finished basements and crawl spaces which typically contain the structure's heating, ventilation and air systems. *(Effects on Public Health & Safety)*

***Notification of Proximity to a Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Lake Como or Painted Rocks Dams.*** The subdivision may be located within the dam inundation area for the Lake Como and Painted Rocks Dams. A map of the probable extent of the inundation areas is included as an exhibit to this document [the subdividers shall include the exhibit as an attachment]. *(Effects on Public Health and Safety)*



**Notification of "very limited" Soils.** Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the very limited soils are included as exhibits to this document. (The applicant shall include the exhibits as attachments) (*Section 3-2-8(b)(v), Effects on Public Health and Safety*)

**Notification of No-Build/Alteration Zone.** Within this subdivision there is a no-build/alteration zone, as shown on the plat, to restrict building in areas with steep slopes and to protect the Bitterroot River riparian area. No new structure, with the exception of fences, may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through these areas are not permitted. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

**Living with Wildlife.** Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. (*Section 3-2-8(b)(v), Effects on Agriculture, Effects on Natural Environment, & Wildlife and Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. Gardens, fruit trees or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species

electric fencing" designed to exclude wildlife from gardens and/or home areas.)

- c. Garbage must be stored in secure animal-resistant containers or indoors to avoid attracting animals such as raccoon, black bear, and other wildlife. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup; bring cans back indoors by the end of the day.
- d. Do not feed wildlife or offer supplements (including salt blocks), attractants, or bait for deer, sheep or other wildlife, including during the winter. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer can attract mountain lions to the area.
- e. Bears can be attracted to food smells associated with outdoor food storage; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. Birdseed in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. Pet food and livestock feed must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such bears, mountain lion, skunk, and raccoon. When feeding pets and livestock, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.

- i. Barbecue grills should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider boundary fencing that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Barbed wire fences are not allowed in this subdivision, and this should avoid animals such as deer and/or elk becoming entangled in the wire or injuring themselves when trying to jump the fence.
- k. Compost piles can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)
- l. Apiaries (bee hives) could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- m. Residents of this subdivision must recognize that the subdivision is located within one-half of mile from the Bitterroot River and its associated sloughs and wetlands, where lawful waterfowl hunting and the associated discharge of shotguns could occur from a half-hour before sunrise through sunset, and the season can run from September into January.
- n. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (Ravalli County Commissioners).

***Riparian Use Guidelines.*** The following covenants, designed to guide use of the "no build/alteration zone", shall apply:

- a. No new building or alteration is allowed in the zones.
- b. Only non-motorized access and use of the buffer zones is allowed (except for certain maintenance needs such as weed spraying).
- c. Do not cut or remove live or dead vegetation, particularly shrubs and trees from the buffer zone. Wood (i.e., fallen branches, downed trees) is an important part of habitat and contributes significantly to overall slope

stability, and dead trees function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.

- d. Do not plant lawns or crops in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- e. If planting is planned for this area, the goal should be to re-establish native plant species appropriate to the site.
- f. In general, keep livestock out of the natural drainage, and do not include the drainage in corrals. Use fences to keep livestock from trampling and grazing riparian vegetation in the buffer zone.
- g. In summary, allow riparian areas--the drainage channel and buffer zones--to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
- h. These riparian covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

***Proximity to Lee Metcalf National Wildlife Refuge.*** This subdivision is located in close proximity to the Lee Metcalf National Wildlife Refuge. The Refuge was established in 1963 to provide habitat for migratory birds. The mission of the Refuge is to manage habitat for a diversity of wildlife species with emphasis on migratory birds and endangered and threatened species, and to provide compatible human benefits associated with Refuge wildlife and wildlands. For more information on the Refuge contacted them at 4567 Wildfowl Lane Stevensville, MT 59870, Phone: (406) 777-5552. The following shall be included to help preserve the integrity of the Lee Metcalf Wildlife Refuge: *(Section 3-2-8(b)(v), Effects on Natural Environment, Effects on Wildlife & Wildlife Habitat)*

- a. Fertilizers can adversely affect groundwater quality and ultimately wildlife and plants. Lot owners should choose plant species that require minimal fertilizer.
- b. Pharmaceuticals of any kind shall not be flushed down a toilet or sink, as there is a possibility that these substances could contaminate water supplies. Lot owners shall contact their local pharmacist for appropriate disposal of pharmaceuticals.
- c. It is recommended that construction, specifically tree-removal, clearing, and other dirt moving activities occur outside the timeframe of April 1<sup>st</sup> to July 15<sup>th</sup>. This timeframe is crucial to the nesting success of migratory birds that will utilize habitat in pastures, wetlands, and tree stands.

- d. No outdoor cats shall be allowed.
- e. To reduce impacts on the native environment it is recommended that native trees be used for landscaping.

***Waiver of Protest to Creation of RSID/SID.*** Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), Effects on Local Services)*

***Lighting for New Construction.*** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). *(Section 3-2-8(b)(v), Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety)*

***Building Standards.*** The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings be constructed to meet state building code requirements. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

***Required Posting of County-Issued Addresses for Lots within this Subdivision.*** The Three Mile Rural Fire District has adopted the Fire Protection Standards, which requires lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*

***Access Requirements for Lots within this Subdivision.*** The Three Mile Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please

contact the Three Mile Rural Fire District for further information. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)

**Radon Exposure.** Owners must understand and accept the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. (*Section 3-2-8(b)(v), Effects on Public Health & Safety*)

**Wood Stoves.** The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (*Section 3-2-8(b)(v), Effects on the Natural Environment*)

**Control of Noxious Weeds.** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (*Section 3-2-8(b)(v), Effects on Agriculture and Natural Environment*)

**Flood Insurance.** It is strongly recommended that property owners obtain flood insurance due to the proximity of the flood hazards as standard homeowner's insurance policies do not cover flood damages. (*Section 3-2-8(b)(v), Effects on Public Health & Safety*)

**Archeological Resources.** If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment*)

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), Effects on Local Services)*
4. The subdividers shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Three Mile Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Three Mile Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The Three Mile Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information". *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*
7. The subdividers shall submit a letter or receipt from the Stevensville School District stating that they have received an (amount) per-new-lot prior to final plat approval. *(Section 3-2-8(b)(v), Effects on Local Services)*
8. The subdividers shall submit an (amount)-per-lot contribution made to the County Treasurer's Office to be submitted into an account for Public Safety (Sheriff, E-911, OEM) prior to final plat approval. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health and Safety)*
9. The final plat shall show a no-ingress/egress zone along the subdivisions frontage with Old Eastside Highway. *(Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety)*

10. The applicant shall work with the Stevensville School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed near the intersection of Edge Drive and Old Eastside Highway. The applicant shall provide evidence that they have worked with the School District prior to final plat approval. If any improvements are required, the applicant shall complete the improvements prior to final plat approval. The bus shelter must at a minimum include a covered area of at least 32 sq. feet, protection on the north and south ends of the shelter and a bench of at least 5 feet in length. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
11. A five-foot wide, ADA compliant, trail shall be constructed within the 60-foot wide easement along Edge Court and Edge Drive. The trail shall be shown on the final plat within the easement of Edge Court and Edge Drive beginning at the cul-de-sac of Edge Court and ending at the bus shelter near Old Eastside Highway. The trail shall be constructed prior to final plat approval. (*Section 3-2-8(b)(v), Effects on Public Health & Safety*)
12. The final plat shall show a no build/alteration zone that includes all areas within the floodplain and additionally extend horizontally to the east from the western edge of the LOMR-FW boundary line a minimum of 100 feet. The proposed wells and retention pond (on lot 4) are exempt from the no build/alteration zone and allowed to remain in the proposed locations. (*Section 3-2-8(b)(v), Effects on Public Health & Safety, Effects on Natural Environment*)
13. The applicant shall provide evidence that a Collection Box Unit(s) (CBU) has been installed atop a concrete slab, in accordance with the Stevensville post office's standards, and that the installation has been approved by the Stevensville Post Office prior to final plat approval. Alternatively, the applicant shall provide evidence from the Stevensville Post Office that a CBU(s) is not required. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services*)
14. The internal subdivision road shall be labeled as a "public road and utility easement" on the final plat. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services*)
15. A stop sign and road name sign shall be installed at the intersection of the internal subdivision road with Edge Drive prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety*)
16. The Road Maintenance Agreement for the internal subdivision road shall include a provision outlining the maintenance of the drainage swale/easement between Lots 4 and 5. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services*)



17. The subdividers shall finish the entire stretch of drainage easement between Lot 4 and 5 with topsoil and certified weed free grass seed prior to final plat approval. (Section 3-2-8(b)(v), RCSR, Effects on Agricultural Water User Facilities and the Natural Environment)
18. The subdividers shall submit a letter or receipt from the County Treasurer's Office stating they have received an (amount) per-new-lot for the Ravalli County Open Lands Program prior to final plat approval. (Section 3-2-8(b)(v), RCSR, Effects on Agriculture)

### **FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)**

*The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.*

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two Mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. In accordance with the conditions of approval and RCSR Section 3-4-4(a)(ii), the following features are required on the Final Plat:
  - a. Project name
  - b. Title block
  - c. Certificate of registered owner – notarized
  - d. Certificate of registered land surveyor with seal
  - e. Certificate of governing body approval
  - f. Signature block for Clerk and Recorder, preferably in lower right hand corner
  - g. Certificate of public dedication
  - h. Certificate of park cash-in-lieu payment
  - i. Other certifications as appropriate
  - j. North arrow
  - k. Graphic scale
  - l. Legal description
  - m. Property boundaries (bearings, lengths, curve data)
  - n. Pertinent section corners and subdivision corners
  - o. Names of adjoining subdivisions/certificates of survey
  - p. Monuments found
  - q. Witness monuments
  - r. Acreage of subject parcel
  - s. Curve data (radius, arc length, notation of non-tangent curves)

- t. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
  - u. Lots and blocks designated by number (dimensions/acreage)
  - v. Easements/rights of ways (location, width, purpose, ownership)
  - w. Dedication for public use (boundaries, area, purpose)
  - x. No-build/alteration zones
  - y. No-ingress/egress zones
  - z. Water resources (rivers, ponds, etc.)
  - aa. Floodplains
  - bb. Irrigation canals including diversion point(s), etc.
  - cc. High-pressure gas lines
  - dd. Existing and new roads (names, ownership, etc.)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
  4. Any variance decisions shall be submitted with the final plat submittal.
  5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
  6. The final plat review fee shall be submitted with the final plat submittal.
  7. A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
  8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
  9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
  10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
  11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
  12. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of the submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurer's Office for the payment of cash-in-lieu of parkland dedication, shall be submitted with the final plat submittal.
  13. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal.
  14. Evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal.
  15. Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineered plans shall be submitted with the final plat submittal.
  16. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
  17. Road certification(s) shall be submitted with the final plat submittal.

18. Utility availability certification(s) shall be submitted with the final plat submittal.
19. Road/common access maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal.
20. A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.
21. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch shall be submitted with the final plat submittal.
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
24. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
25. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations shall be submitted with the final plat submittal.
26. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdividers, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)
  - a. Specific infrastructure improvements required for this subdivision are the installation of a stop sign and road name sign, installation of the CBU and concrete slab, construction of the internal subdivision road, construction of the walking trail, construction of the bus shelter and turnout, if required.

## **SUBDIVISION REPORT**

### **COMPLIANCE WITH PREREQUISITES TO APPROVAL**

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

**A. Provides easements for the location and installation of any planned utilities.**

Findings of Fact

1. Existing utility easements are located along Old Eastside Highway and Edge Drive. (Rivers Edge II Subdivision Application and Preliminary Plat)
2. Proposed utility easements are located along Edge Court. (Rivers Edge II Subdivision Application and Preliminary Plat)
3. Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)

Conclusion of Law

The proposed subdivision application provides for utility easements.

**B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

Findings of Fact

1. The subject property is accessed by Eastside Highway, Old Eastside Highway, Edge Drive, and Edge Court. (Rivers Edge II Subdivision Application)
2. Eastside Highway is a state-maintained roadway. (MDT)
3. Old Eastside Highway is listed as a county-maintained road. (RCSR)
4. Edge Drive is shown as a privately-maintained road within a 60' private access easement. (Rivers Edge II Preliminary Plat)
5. The internal subdivision road, Edge Court, will be labeled as a "public road and utility easement" on the final plat. (Condition 14)
6. The subdividers is required and is proposing to build Edge Court to County standards. (Rivers Edge II Subdivision Application, Final Plat Requirement 16)

Conclusion of Law

Legal and physical access will be provided for each lot.

**C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Finding of Fact

The applicant is required to submit evidence that the improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdividers prior to final plat approval (Final Plat Requirements 1 and 21).

1. Specific infrastructure improvements required for this subdivision are the installation of a stop sign and road name sign, installation of the CBU and concrete slab, construction of the internal subdivision road,

construction of the walking trail, construction of the bus shelter and turnout, if required.

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

There are no water rights associated with the subject property. (Rivers Edge II Subdivision Application)

Conclusion of Law

This requirement does not apply.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

There are no irrigation ditches on or within 300 feet of the property. (Rivers Edge II Subdivision Application)

Conclusion of Law

This requirement does not apply.

- F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

Findings of Fact

1. The application states that .52 acres are required to meet the parkland dedication requirement. (Rivers Edge II Subdivision Application)
2. All lots within the subdivision are proposed for residential use. (Rivers Edge II Subdivision Application)
3. The applicant proposed cash-in-lieu of parkland dedication to meet parkland donation requirements. (Rivers Edge II Subdivision Application)
4. In a letter dated October 28, 2008, Bob Cron from the Ravalli County Park Board stated that the parkland dedication requirement is smaller than the desired size for a neighborhood park. The Ravalli County Park Board, therefore, concurs with the applicant's proposal to provide cash-in-lieu to meet their park obligation. (Exhibit A-1)
5. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdividers and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the

subdividers, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.” (See also Section 6-1-5(e), RCSR)

6. If the BCC determines that cash-in-lieu is appropriate, the applicant will be required to hire an appraiser as outlined in Section 6-1-7. The BCC will determine whether or not the amount is acceptable (Final Plat Requirement 12)

#### **Conclusion of Law**

The applicant has proposed parkland dedication that meets State Law requirements and is suitable to the Park Board

#### **COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

#### **A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

##### **Findings of Fact**

1. The lot layout as indicated on the preliminary plat appears to meet the design standards in Chapter 5 of the RCSR. (Rivers Edge II Subdivision File)
2. This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (Rivers Edge II Subdivision File)

##### **Conclusions of Law**

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision have been followed.

#### **B. Applicable zoning regulations.**

##### **Findings of Fact**

1. The property is not within one of the voluntary zoning districts in Ravalli County. (Ravalli County GIS Data)
2. This subdivision was not subject to the settlement agreement filed in the *Lords et al. v. Ravalli County* lawsuit regarding the Interim Zoning Regulations enacted November 7, 2006. However, based on a timeline established by the County, the subdivision should have received a decision prior to the interim zoning regulations coming into effect. On the

advice of legal counsel, the subdivision is being reviewed as if it was part of the settlement and may be affected by final adjudication from said settlement. (*Lords et al. v. Ravalli County*)

**Conclusion of Law**

This proposal appears to comply with existing zoning regulations.

**C. Existing covenants and/or deed restrictions.**

**Finding of Fact**

There are no existing covenants that apply to the property.

**Conclusion of Law**

This provision does not apply.

**D. Other applicable regulations.**

**Findings of Fact**

1. Following are regulations that may apply to this subdivision:
  - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
  - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
  - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
  - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
  - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the pre-application conference held on September 28, 2005. (Rivers Edge II Subdivision File)
3. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

**Conclusion of Law**

With the final plat requirements, the application will meet the applicable regulations.

**E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:**

**CRITERION 1: EFFECTS ON AGRICULTURE**

**Findings of Fact:**

1. The proposed major subdivision on 10.37 acres will result in 9 lots that range in size from 1.0 acres to 1.4 acres. (Rivers Edge II Subdivision Application)

2. The subject parcel is classified for tax purposes as vacant land rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
3. Parcels adjacent to the subject property are classified for tax purposes as vacant land rural and residential rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
4. The new soils data available from the NRCS Web Soil Survey shows that there are soils rated as "Prime Farmland if Irrigated" on approximately 50% of the subject property. (NRCS Websoil Survey)
5. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed was found scattered throughout and around the property. (Rivers Edge II Subdivision Application)
6. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
7. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
  - The subdividers shall submit a letter or receipt from the County Treasurer's Office stating they have received an (amount) per-new-lot for the Ravalli County Open Lands Program prior to final plat approval. (Condition 18)
  - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
  - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
  - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

**Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agriculture will be reduced.

**CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

**Findings of Fact**

1. There are no water rights associated with the subject property. (Rivers Edge II Subdivision Application)
2. There are no irrigation ditches or easements on or within 300 feet of the property. (Rivers Edge II Subdivision Application)

**Conclusion of Law**



Impacts on agricultural water user facilities should be minimal.

### **CRITERION 3: EFFECTS ON LOCAL SERVICES**

#### **Findings of Fact:**

##### **Fire District**

1. The subdivision is located within the Three Mile Rural Fire District. (Rivers Edge II Subdivision Application)
2. Notification letters were sent to the Three Mile Rural Fire District requesting comments on February 6, 2007 and October 6, 2008, but no comments have been received to date. (Rivers Edge II Subdivision File)
3. The Three Mile Rural Fire District has adopted Fire Protection Standards, which address access, posting of addresses, and water supply requirements. (Exhibit A-2)
4. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
  - *Provisions in the covenants shall require that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
  - *A provision in the covenants shall recommend that houses within the subdivision be built to IRBC standards. (Condition 2)*
  - *The subdividers shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Conditions 2 and 4)*
  - *Prior to final plat approval, the subdividers shall provide a letter from the Three Mile Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Three Mile Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
  - *The following statement shall be shown on the final plat: "The Three Mile Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Three Mile Rural Fire District for further information". (Condition 6)*

##### **School District**

5. With this subdivision, it is estimated that approximately 4.5 school-aged children will be added to the Stevensville School District, assuming an average of 0.5 children per household (Census 2000).
6. Notification letters were sent to the Stevensville School District requesting comments on February 5, 2007 and October 6, 2008. (Rivers Edge II Subdivision File)

7. In a letter dated October 31, 2008, Kent Kultgen, Stevensville Schools Superintendent, requested \$2,558 per lot to offset the expense of expanded enrollment in the school system. (Exhibit A-10)
8. The County School Superintendent, Ernie Jean, sent a letter to the Ravalli County Commissioners stating that the Ravalli County Educational Transportation Committee recently adopted a resolution requesting that the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and turnout, or turnaround, if appropriate, at each subdivision entrance that is off a County owned and maintained road. (Exhibit A-2)
9. Stevensville district bus policy stipulates the buses can only travel on county and state maintained roads. (Exhibit A-3)
10. County School Superintendent, Ernie Jean, has provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the budget per pupil would be \$8,020 for the Stevensville School District (averaging Stevensville High school and Stevensville Elementary). (Exhibit A-4)
11. The Stevensville School District Transportation Supervisor sent a letter on June 24, 2008 stating there preferred dimensions for bus shelters. (Exhibit A-3)
12. *To mitigate impacts on the School District:*
  - *The subdividers shall submit a letter or receipt from the Stevensville School District stating that they have received an (amount) per-new-lot prior to final plat approval. (Condition 7)*
  - *The subdividers shall submit a copy of the letter sent to the Stevensville School District stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; the letter shall be submitted with the final plat submittal. (Final Plat Requirement 24)*
  - *The applicant shall work with the Stevensville School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed near the intersection of Edge Drive and Old Eastside Highway. The applicant shall provide evidence that they have worked with the School District prior to final plat approval. If any improvements are required, the applicant shall complete the improvements prior to final plat approval. The bus shelter must at a minimum include a covered area of at least 32 sq. feet, protection on the north and south ends of the shelter and a bench of at least 5 feet in length. (Condition 10)*

#### Roads

13. This subdivision will add 64 additional trips per day to the road network. (Rivers Edge II Subdivision Application)
14. The property will be accessed via Eastside Highway, Old Eastside Highway, Edge Drive, and Edge Court. (Rivers Edge II Subdivision Application)
15. Eastside Highway is a state-maintained roadway. (MDT)
16. Old Eastside Highway is listed as a county-maintained road. (RCSR)

17. Edge Drive is shown as a privately-maintained road within a 60' private access easement. (Rivers Edge II Preliminary Plat)
18. The subdividers are required to and are proposing to build the internal subdivision road, Edge Court, to County standards. (Rivers Edge II Subdivision Application, Final Plat Requirement 16)
19. Preliminary road plans for Edge Court were approved October 19, 2006 by the Ravalli County Road and Bridge Department (RCRBD). (Rivers Edge II Subdivision File)
20. The RCRBD has accepted that Edge Drive has been designed and constructed to meet the appropriate County standard. (Rivers Edge II Application)
21. The RCRBD has accepted that Old Eastside Highway has been designed and constructed to meet the appropriate County standard. (Rivers Edge II Application)
22. In a letter dated February 13, 2007, Glen Cameron of MDT stated he had no specific comments or any immediate concerns regarding the proposed 5-lot residential subdivision. Modifications to the intersection with the East Side Highway were completed by the adjacent subdivision. (Exhibit A-5)
23. In an email dated October 29, 2008, Glen Cameron noted that it appeared 4 lots were added to the proposed development and that even with the addition of 4 lots, there were no immediate concerns. (Exhibit A-6).
24. There is a 20-foot wide drainage easement which traverses the property line between Lots 4 and 5 leading to a retention pond. (Rivers Edge II Preliminary Plat)
25. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
  - *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
  - *The notifications document filed with the final plat shall include a statement notifying lot owners of the no ingress/egress restriction. (Condition 1)*
  - *The notifications document filed with the final plat shall include a statement notifying lot owners of the road maintenance agreement. (Condition 1)*
  - *The notifications document filed with the final plat shall include a statement notifying lot owners of the location of the drainage easements located on the Lots 4 and 5. (Condition 1)*
  - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
  - *The internal subdivision road, Edge Court, shall be labeled as a "public road and utility easement" on the final plat. (Condition 14)*
  - *A stop sign and road name sign shall be installed at the intersection of the internal subdivision road with Edge Drive prior to final plat approval. (Condition 15)*
  - *The Road Maintenance Agreement for the internal subdivision road shall include a provision outlining the maintenance of the drainage swale/easement between Lots 4 and 5. (Condition 16)*

- *The final plat shall show a no-ingress/egress zone along the subdivisions frontage with Old Eastside Highway. (Condition 9)*

#### Public Safety

26. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Rivers Edge II Subdivision Application)
27. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on February 5, 2007 and October 6, 2008, but no comments have been received to date. (Rivers Edge II Subdivision File)
28. The average number of people per household in Ravalli County is 2.5. This subdivision is estimated to add 22.5 people to the County. (Census 2000)
29. Taxes from new residents may not be immediately available to law enforcement services, E-911, or the Office of Emergency Management (OEM). There is no available information on the average amount of time between when public safety services begin to serve a new residence and when public safety services receive tax money from that residence. (Staff Determination)
30. *The subdividers shall submit an (amount)-per-lot contribution made to the County Treasurer's Office to be submitted into an account for Public Safety (Sheriff, E-911, OEM) prior to final plat approval. (Condition 8)*

#### Emergency Services

31. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital was contacted on February 5, 2007 and October 6, 2008 but no comments have been received to date. (Rivers Edge II Subdivision Application)
32. *To mitigate impacts on emergency services, the subdividers shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

#### Water and Wastewater Districts

33. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Rivers Edge II Subdivision Application)

#### Solid Waste Services

34. Bitterroot Disposal provides service to this site. (Rivers Edge II Subdivision Application)
35. Notification letters were sent to Bitterroot Disposal requesting comments on February 5, 2007 and October 6, 2008, but no comments have been received to date. (Rivers Edge II Subdivision File)

#### Utilities

36. Existing utility easements are located along Old Eastside Highway and Edge Drive as shown on the plat. (Rivers Edge II Subdivision Application and Preliminary Plat)
37. Proposed utility easements are located along Edge Court as shown on the plat. (Rivers Edge II Subdivision Application and Preliminary Plat)

38. The proposed subdivision will be served by Northwestern Energy Company and Qwest Communications. (Rivers Edge II Subdivision Application)
39. Notification letters were sent to Northwestern Energy Company and Qwest Communications requesting comments on February 5, 2007 and October 6, 2008, but no comments have been received to date. (Rivers Edge II Subdivision File)
40. *The following requirements will mitigate impacts of the subdivision on local utilities:*
  - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
  - *The applicant shall submit a utility availability certification from Northwestern Power Company and Qwest Communications prior to final plat approval. (Final Plat Requirement 18)*

#### Postal Service

41. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-7).
42. *To mitigate impacts on local services, the subdividers shall provide evidence that a Collection Box Unit(s) (CBU) has been installed atop a concrete slab, in accordance with the Stevensville post office's standards, and that its installation has been approved by the Stevensville post office prior to final plat approval. Alternatively, the applicant shall provide evidence from the Stevensville Post Office that a CBU(s) is not required. (Condition 13)*

#### Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

### **CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT**

#### Findings of Fact:

##### Air Quality

1. This proposed subdivision would add 9 new homes to an area of existing medium density development north of Stevensville. (Rivers Edge II Preliminary Plat) (Site Visit)
2. The Montana Department of Environmental Quality (DEQ) has reviewed the PM<sub>2.5</sub> (particulate matter  $\leq 2.5$  micron) data collected in 2007 and incorporated it into the PM<sub>2.5</sub> dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade. (Exhibit A-8)
3. Sources of particulate from this subdivision could include vehicles and wood-burning stoves. (Staff Determination)
4. *To mitigate impacts on air quality, the covenants shall include a recommendation that EPA-certified wood stoves should be installed to reduce*

*air pollution and that wood burning stoves should not be used as the primary heat source. (Condition 2)*

#### Ground Water Quality

5. The subdividers is proposing individual wells and wastewater facilities. (Rivers Edge II Subdivision Application)
6. The subdividers submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Rivers Edge II Subdivision Application)
7. In her recommendations dated October 16, 2008, Ravalli County Floodplain Administrator Laura Hendrix stated that the proposed wells and retention pond (on lot 4) should be exempt from the no build/alteration zone and allowed to remain in the proposed locations. (Exhibit A-9)
8. There is a 40' x 40' x 2' deep retention pond located within a 60' x 60' easement located on Lot 4 and a 20-foot wide drainage easement traversing the property line between Lots 4 and 5. (Rivers Edge II Preliminary Plat)
9. *To mitigate impacts on ground water quality, the following requirements and conditions shall be met:*
  - *The applicant is required to submit the DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*
  - *The subdividers shall finish the entire stretch of drainage easement between Lots 4 and 5 with topsoil and certified weed free grass seed prior to final plat approval. (Condition 17)*
  - *The final plat shall show a no build/alteration zone that includes all areas within the floodplain and additionally extend horizontally to the east from the western edge of the LOMR-FW boundary line a minimum of 100 feet. The proposed wells and retention pond (on lot 4) are exempt from the no build/alteration zone and allowed to remain in the proposed locations. (Condition 12)*

#### Light Pollution

10. The addition of three new residential homes in an area that currently has medium density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
11. The Lee Metcalf National Wildlife Refuge Director, Erin Holmes, submitted a letter dated November 3, 2008 that states she has concerns about artificial light affecting mating, migration, and predation behaviors of many different species and, consequently, the ecological community as a whole. She recommends that the subdivision follow the guidelines as suggested by the International Dark-Sky Association. (Exhibit A-11)
12. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

#### Vegetation

13. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed was found scattered

throughout the property and spotted knapweed was found scattered around the property. (Rivers Edge II Subdivision Application)

14. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
15. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Rivers Edge II Subdivision Application).
16. The Lee Metcalf National Wildlife Refuge Director, Erin Holmes, submitted a letter dated November 3, 2008. In the letter she recommends that plant species for any common areas require minimal fertilizer. She also recommends the applicant work with the Ravalli County Weed District on a weed management plan for the subdivision to minimize the introduction of noxious weeds. (Exhibit A-10)
17. Fish, Wildlife, & Parks (FWP) submitted comments July 1, 2004 on the Rivers Edge subdivision. Rivers Edge II is located adjacent to Rivers Edge subdivision. Many of the comments submitted for the Rivers Edge subdivision are relevant to this proposal. (Exhibit A-12)
18. *To mitigate impacts on the natural environment:*
  - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
  - *The applicant is required to submit the approved Ground Disturbance and Noxious Weed Management Plan prior to final plat approval. (Final Plat Requirement 11)*
  - *The covenants shall include a proximity to Lee Metcalf National Wildlife Refuge section. (Condition 2)*

#### Noise Levels

19. This subdivision is located 0.4 miles from the Lee Metcalf National Wildlife Refuge. (Ravalli County GIS)
20. Due to the proximity of this proposed subdivision to the Lee Metcalf Refuge and Bitterroot River, there is a possibility of conflict between waterfowl hunters and the subdivision. The sound of the lawful discharge of shotguns may create some concern by the residents. Waterfowl hunting occurs from early morning until sunset, and the season can run from September into January. (Staff Determination from typical FWP comments)
21. *To mitigate impacts of the subdivision being in close proximity to noise from hunting along the Bitterroot River, a notification of the potential noise shall be included in the covenants. (Condition 2)*

#### Historical/Archeological Sites

16. The application states that there are no known sites of historical significance on the property. (Rivers Edge II Application)
17. The covenants shall include an archeological resources section. (Condition 2)

**Conclusion of Law:**

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval

**CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT**

**Findings of Fact:**

Notification letters were sent to Montanan Fish, Wildlife, & Parks requesting comments on February 5, 2007 and October 6, 2008.

Fish, Wildlife, & Parks submitted comments July 1, 2004 on the Rivers Edge subdivision. Rivers Edge II is located adjacent to Rivers Edge Subdivision. Many of the comments submitted for the Rivers Edge subdivision are relevant to this proposal. (Exhibit A-12)

Wildlife abounds in the general vicinity of this subdivision. In particular, animals such as white-tailed deer, fox and skunks are found in the area, as well as an occasional black bear and possible mountain lion. Numerous small mammal and bird species, including waterfowl and birds of prey can be found nearby, as well as nesting birds. (Exhibit A-12)

This subdivision is located 0.4 miles from the Lee Metcalf National Wildlife Refuge. (Ravalli County GIS)

The Lee Metcalf National Wildlife Refuge Director, Erin Holmes, submitted a letter dated November 3, 2008. The letter contained the following recommendations to mitigate the effects on wildlife and wildlife habitat: (Exhibit A-11)

- FWP's "living with wildlife" provisions should be included in the covenants.
- Additional covenants should be developed to minimize impacts on wildlife, including a provision prohibiting outside cats.
- Construction, specifically tree-removal, clearing, and other dirt-moving activities, should occur outside the timeframe of April 1<sup>st</sup> to July 15<sup>th</sup>.

The property is not located within big-game winter range. (FWP Data)

The property is approximately 75 feet from the Bitterroot River to the west and the riparian area associated with the river, it does not border the River. (Ravalli County GIS)

According to the Montana Natural Heritage Program, the Westslope Cutthroat Trout, Lewis's Woodpecker, Bobolink, and Bird Rookery were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. (Ravalli County GIS)

The subdividers requested and received a waiver from the requirement to submit a sensitive species report for the Westslope Cutthroat Trout, Lewis's Woodpecker, and Bird Rookery because of lack of habitat on the property and negligible impacts for all species. (Rivers Edge II Subdivision Application, Rivers Edge II Subdivision File)

The subdividers submitted a sensitive species report for the Bobolink that was prepared by Log Cabin Environmental Consulting. The report stated this parcel does not appear to provide the preferred habitat for Bobolinks. (Rivers Edge II Preliminary Plat)

*To mitigate impacts on wildlife and wildlife habitat, the following conditions shall be met:*

- *The covenants shall include a living with wildlife section. (Condition 2)*
- *The covenants shall include riparian use guidelines. (Condition 2)*
- *The covenants shall include a provision recommending full cut-off lighting. (Condition 2)*
- *The covenants shall include provisions related to the proximity of the property to the Lee Metcalf National Wildlife Refuge. (Condition 2)*



- *The no-build/alteration zone on the wetlands and riparian area shall be shown on the final plat as proposed on the preliminary plat. (Condition 12)*

#### Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

#### CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

##### Findings of Fact:

##### Traffic Safety

1. The property will be accessed via Old Eastside Highway, Edge Drive, and Edge Court. (Rivers Edge II Subdivision Application)
2. In a letter dated October 28, 2008, Bob Cron from the Ravalli County Park Board recommended that the applicants as part of their transportation system, for the safety of children and walking adults, construct a minimum five foot wide asphalt trail along one side of the access road. (Exhibit A-1)
3. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*
4. *A five-foot wide, ADA compliant, trail shall be constructed within the 60-foot wide easement along Edge Court and Edge Drive. The trail shall be shown on the final plat within the easement of Edge Court and Edge Drive beginning at the cul-de-sac of Edge Court and ending at the bus shelter near Old Eastside Highway. The trail shall be constructed prior to final plat approval. (Condition 11)*

##### Emergency Vehicle Access and Response Time

5. The proposed subdivision will be served by the Three Mile Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Rivers Edge II Subdivision Application)
6. The property is located 1,000 feet from the Lone Rock Fire Station. (Ravalli County GIS)
7. The property is located 3.5 miles from the Stevensville Fire Station. (Rivers Edge II Subdivision Application)
8. The property is located approximately 23 miles from the Sheriff's Dispatch in Hamilton. (Rivers Edge II Subdivision Application)
9. *The requirements and conditions listed under Fire District, Law Enforcement, Emergency Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

##### Water and Wastewater

10. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Rivers Edge II Subdivision Application)
11. *To mitigate effects on water and wastewater, the DEQ Certificate of Subdivision Approval, RCEH approval shall be submitted with the final plat submittal. (Final Plat Requirement 9)*

#### Natural and Man-Made Hazards

12. The property is approximately 75 feet from the Bitterroot River to the west and the riparian area associated with the river. It does not border the River. Though the area defined as floodplain is currently encumbered by a no-build/alteration zone, rivers and streams are prone to migration, which could affect the boundary of the floodplain. (Ravalli County GIS, Floodplain Management Study Bitterroot River, Ravalli County, Montana (November, 1995) and RCSR Section 5-2-1(3))
13. In her letter dated October 16, 2008, Ravalli County Floodplain Administrator Laura Hendrix recommended the following: (Exhibit A-9)
  - a. To allow for possible channel migration and bank erosion, the no build/alteration zone should include all areas within the floodplain and should additionally extend horizontally to the east from the western edge of the LOMR-FW boundary line a minimum of 100 feet.
  - b. It is strongly recommended that the future property owners obtain flood insurance due to the proximity of the flood hazards as standard homeowner's insurance policies do not cover flood damages.
  - c. Basements and below grade crawl spaces should be prohibited in proposed residences. Even though FEMA has granted a LOMR-FW for the subject property, the prerogative to require flood insurance belongs to the mortgage lenders. Property owners with enclosed floors below the 100-year base flood elevation (BFE) pay substantially higher insurance premiums than those who build above the BFE. Requiring above grade enclosures will also reduce the possibility of groundwater inundation into finished basements and crawl spaces which typically contain the structure's heating, ventilation and air systems.
14. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
15. The addition of nine new residential homes in an area that currently has low density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
16. Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites, as shown on the plat. (Rivers Edge II Preliminary Plat)
17. The preliminary plat shows and a site visit confirmed that wetlands and a riparian area exist along the western edge of the property. (Rivers Edge II Preliminary Plat, Site Visit)
18. Portions of the subject property are may be encumbered by the dam inundation zones of Lake Como and Painted Rocks Reservoir. (Ravalli County GIS)
19. *To mitigate possible impacts on public health and safety, the following conditions shall be met:*
  - *A notification of very limited soils shall be included in the notification document. A reduced copy of the final plat showing the approximate location of the "very limited" soils shall be included with the notifications document as an exhibit. (Condition 1)*
  - *A notification of the potential location within the Lake Como and Painted Rocks dam inundation zones shall be included in the notification document. A reduced*

*copy of the final plat showing the approximate location of the inundation zones shall be included with the notifications document as an exhibit. (Condition 1)*

- *The notifications document filed with the final plat shall include information for lot owners about developing near the floodplain. (Condition 1)*
- *The covenants shall include a statement recommending all lot owners obtain flood insurance. (Condition 2)*
- *The covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
- *The covenants shall include a statement regarding radon exposure. (Condition 2)*
- *The final plat shall show a no build/alteration zone that includes all areas within the floodplain and additionally extend horizontally to the east from the western edge of the LOMR-FW boundary line a minimum of 100 feet. The proposed wells and retention pond (on lot 4) are exempt from the no build/alteration zone and allowed to remain in the proposed locations. (Condition 12)*

#### Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety

Commissioner Rokosch questioned the Effects on Agriculture criterion with the soils of local importance. He also requested clarification of the school district. Randy replied it is in the Stevensville School District and 50% prime farmland soils if irrigated.

Commissioner Grandstaff opened public comment.

Dale Hand stated his family has been living there for over 30 years. It is a wildlife corridor. It was laid out for one house on 10 acres. He stated if multiple houses are put in there it would be in the middle of the wildlife corridor. He stated when the first subdivision was put in, the riprap was washed away the first year and it went downstream. It was thrown in the river to the east. He stated ten houses are too much in there. It is also detrimental to the flow of traffic.

Ray Karr stated he lives adjacent to the proposed subdivision. He stated he is concerned with the old aerial photo used in the Staff Report. It does not show the condition of the river bank accurately and the quality of the water with nitrate production. He discussed the enter point of the road and how it would create a bottle neck with traffic and school buses. He suggested having an access directly onto the Old Eastside Highway. He stated his concern with young children in the subdivision at the point of traffic congestion. He presented a signed letter from four of the residents to the Board with his concerns. He pointed out the slough drying up on the map.

Gary Minster stated with an additional nine homes and the tax base and the amounts the developers will pay in fees will not hurt the schools with their budgets. He stated nine nice new houses would fit in nicely with their neighborhood.

Ed Quick stated the river is moving eastward. He expressed his concern with the development threatening the river. He agrees with the Floodplain Administrator. He discussed the density of the development within the surrounding areas. The argument of the density being appropriate is circular. There are water rights with the slough.

Kathy Quick stated when her trailer and picnic area were built, they had 30 feet more of river bank. She stated they do have a permit. Commissioner Rokosch asked from the time of purchase to present day, how much land was lost. Kathy replied about 30 feet. She stated the trees are also gone. She stated the wildlife corridor would be lost among the houses.

Lee Kierig urged the Board to consider the report that the Planning Board had presented.

Chuck Buchanan stated he lives in River's Edge I. He stated he has looked at the aerial photos in the past and present. There has been washing out on the river's bank to the south. He believes there has been some riprap added and there is concern the river is changing in direction. He stated it cannot be seen in one photo but in several for the amount of river bank that has been lost. He stated the entrance to the subdivision is a road between two houses. He stated there will be a home isolated with the entrance. It is not designed for more traffic.

Susan Buchanan questioned the nine new septic systems leaching into the river. Her concern is too many homes on too small of a parcel.

Kathy Quick stated there are a lot of ducks in the slough as well as horse owners who use it for watering.

Commissioner Grandstaff closed public comment and requested the consultant report.

Kirby Christian presented a power point presentation. He pointed out a point of reference. He stated nothing in this subdivision is doing anything with the river. There is no proposal of placing any riprap on the river.

Gordon Sorenson reviewed the aerial photos within the presentation. He stated the proposed homes are above the bench. He pointed out the new channel of the river to the east and the overflow channels from several different angles. He presented a cross-sectional drawing illustrating a 100 year flood within the property. He stated the area also has heavy grass. The water would hardly be moving along the flood area. He discussed the requested setback of 100 feet from the floodway by the Floodplain Administrator. He stated the setback is detrimental to the plans. He stated they are willing to add an additional 50 feet to the existing setback (no build/no alteration zone) but 100 feet is a hardship. Gordon reviewed the elevation at the top of the bench with vegetation. He discussed the brush and grass being difficult to walk through. He stated there is a log jam along the bank with the rocks. The trench was built back in 2004. They put in 200 feet of rock for erosion control. Commissioner Grandstaff questioned the rate of the erosion. Gordon replied 20 feet within the first year. He stated the subdivision is well protected.

Gordon reviewed the proposed access on Edge Drive and Edge Court. He stated there is no congestion for the access with 27 homes. He also pointed out the easement of 60 feet.

Commissioner Rokosch requested a copy of the power point presentation. Kirby provided a copy for the Board.

Gordon reviewed the conditions. **He offered mitigation of \$500 per lot for Three Mile Rural Fire District, \$1,111 per lot for Lone Rock School District, and \$500 per lot for Public Safety.** He stated he is working with the school district for the turn around however, they prefer to not have a turn around but would rather stop traffic. He discussed the trail and questioned where it would go. He stated if it had the potential to connect to something it would be different. The property owners are not fond of having a trail in front of their homes. **He requested waiving the condition for the trail.**

Gary Minster stated he is not aware of any statute within the subdivision regulations for the trail. He stated he donated several computer laptops for the school in lieu of school contributions for his subdivision. He stated within conversations of money being used for the trails, the school would rather have the money than the trails.

Gordon reviewed the road maintenance agreement that addresses River's Edge II sharing the cost and maintenance. **He proposed \$100 per lot for the Open Lands Program. He stated they are in agreement with paving 20 feet for the fire district. He offered \$100 per lot for the impacts to Eastside Highway.** He addressed the wildlife corridor. He stated where he lives, the deer migrate through yards and houses. He also has ducks in his irrigation ditch. He stated if wildlife wants to continue their corridor, they will. Gordon addressed the flooding issue. He stated it is not physically possible with the riprap.

Kirby handed out the proposed mitigation plan to the Board. He then recapped the offered mitigation with the Board which was the same as previously stated by Gordon. He stated they understand the concerns of the people here today. He stated the river changing direction is not part of this subdivision.

Tom Poindexter read a letter in response to the concerns and presented it to the Board. He stated they are here for River's Edge II not River's Edge I. He stated riprap is not proposed due to the subdivision not being along the river. He stated the road may be the only concern of erosion.

Commissioner Grandstaff reopened public comment.

Randy stated there is 50% prime farmland if irrigated. Tristan stated they are located within Stevensville School District.

Ray Karr stated he is a landowner. He spoke of accuracy within a legal document stating common property belongs to the homeowner's association. He stated common accesses should be maintained by the homeowner's association as well. He stated the common property is legally the management of the homeowner's association and the area they

want to come in is common property. Tristan stated it is a private road located within a private easement. Commissioner Rokosch stated he had a conversation with Road & Bridge Supervisor David Ohnstad and it was his understanding it was a private road with a public easement. Kirby stated without documents, he cannot verify the easement. Commissioner Rokosch stated the Board cannot proceed without clarification.

Commissioner Chilcott made a motion to recess until 1 p.m. for an answer to this question. Commissioner Driscoll seconded the motion and all voted 'aye'.

Commissioner Grandstaff reconvened the meeting at 1 p.m.

Civil Counsel Karen Mahar stated after investigating the final plat for River's Edge I, a small portion of the entrance is public. The internal road Edge Drive is private. She stated the plat approval is for a private road system and the deeds to the lots adjacent refer back to the final plat indicating no public easements. She stated Edge Drive is within a 60 foot private easement. She stated she spoke to Road and Bridge Supervisor David Ohnstad and he stated his approval was for the use of the Old Eastside Highway for access, he did not specifically look at the legal access status for Edge Drive. He stated any approach off Old Eastside Highway would have to be permitted.

Kirby stated he reviewed the plat and it was depicted as a public access. He proposed to approach it as a condition of approval to establish legal access as permissible. He would like to try to obtain the access as a public easement. He stated if legal access is not established, he would like to be able to obtain a permit for access onto Old Eastside Highway by the County Road Department as a condition.

Civil Counsel Karen Mahar recommended continuing the hearing until access can be obtained. Kirby asked could they use the same road structure with access to Old Eastside Highway and then come back before the Board? Karen replied under the regulations, if the subdivision changes the preliminary plat, there are five working days to submit with a material change. She discussed the need for additional time with plat changes. John Lavey stated staff would have to compare it for material change. He discussed the possible need for engineering plans, an access encroachment permit approval, and traffic analysis for Old Eastside Highway all depending on what the proposal would detail.

Commissioner Rokosch stated within the homeowner's association covenants, there may be language that gives approval of this to be used as an access point. Kirby replied a public road access gives the right to use it. He stated they will need to analyze the private access to make changes and research the intent to use it as an access point for the subdivision. He requested approval based on the condition of establishing legal access rather than go back and go through the public process again. Commissioner Rokosch stated within the timeline the Board has until the 15<sup>th</sup> to make a decision. He recommended a continuance. Civil Counsel commented that design changes could affect the criteria. Commissioner Chilcott stated as for option one, if the applicant could demonstrate this is a legal access, he does not have a problem with moving forward. However, having legal access is required for the application being determined sufficient.

Kirby stated the option is to establish legal access for the current proposal and come back for the Board to review sufficiency or have Staff determine the access point in sufficiency before bringing it to the Board. John stated as long as Staff determines the changes are not material. He requested a five minute break to confer with his clients. The Board agreed.

Kirby returned and asked the Board for their preferences for continuance. Commissioner Rokosch stated he would prefer the access prior to reviewing the criteria. Further discussion followed regarding a date for continuance.

**Commissioner Chilcott made a motion to continue the public hearing for River's Edge II Major subdivision until December 15<sup>th</sup> at 1:30 p.m. Commissioner Driscoll seconded the motion and all voted 'aye'.**

Randy recommended reviewing any concerns. Commissioner Grandstaff stated her concern is the riprap and how much has eroded. Commissioner Rokosch stated he had a conversation with Chris Clancy from Fish, Wildlife and Parks and he wanted to revisit the site for concerns of the effect of upstream structures. He stated there are some questions from FWP that he would like to see included. Commissioner Rokosch stated there is a section in the covenants referring to the homeowner's association being responsible for the retaining wall. He requested the covenants be reviewed, as well as the adjacent properties being considered for the potential impact. He expressed his concern with the behavior of the river over time with channel migration. He also mentioned the tax records for the school district. Randy stated the school boundary line is next to the property. Commissioner Driscoll stated she is looking for a walk path as part of mitigation. She expressed her concern with the wildlife corridor and the recommended 100 foot setback from the Floodplain Administrator. Commissioner Chilcott stated there is a letter from Lone Rock stating they have been gifted \$10,000. If it is determined Stevensville School District is the primary district, it needs to be determined which school district this falls into. Commissioner Rokosch requested consideration to the classification of soils and perhaps additional mitigation for those impacts. He also expressed his concern of the bus turn out and which side of the road it will be on. He stated a letter is required from the school district prior to final plat approval.